

UNITED STATES DISTRICT COURT

for the

Western District of Virginia

Charlottesville Division

NOV 22 2023

By: S. Austin
LAURALEE AUSTIN, CLERK
DEPUTY CLERK

Tracy Childers

Case No.

3:23cv00063

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Albemarle County Publin Schools ("ACPS")

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT FOR EMPLOYMENT DISCRIMINATION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Tracy Childers
Street Address	112 Justin Drive
City and County	Palmyra, Abemarle
State and Zip Code	Virginia 22963
Telephone Number	(434) 989-9701
E-mail Address	tchilders3373@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	Albemarle County Public Schools ("ACPS")
Job or Title <i>(if known)</i>	
Street Address	401 McEntire Rd, Room 333
City and County	Charlottesville, Albemarle
State and Zip Code	Virginia 22902
Telephone Number	(434) 296-5820
E-mail Address <i>(if known)</i>	rholden@k12albemarle.org

Defendant No. 2

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 3

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 4

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is

Name	Broadus Wood Elementary School
Street Address	185 Buck Mountain Road
City and County	Earlysville, Albemarle
State and Zip Code	Virginia 22936
Telephone Number	(434) 973-3865

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to *(check all that apply)*:

☐ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

☐ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)

☒ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

☐ Other federal law *(specify the federal law)*:

☐ Relevant state law *(specify, if known)*:

☐ Relevant city or county law *(specify, if known)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes *(check all that apply)*:

- ☐ Failure to hire me.
- ☐ Termination of my employment.
- ☐ Failure to promote me.
- ☒ Failure to accommodate my disability.
- ☐ Unequal terms and conditions of my employment.
- ☒ Retaliation.
- ☐ Other acts *(specify)*: _____

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)
September 2018 thru the present _____

C. I believe that defendant(s) *(check one)*:

- ☒ is/are still committing these acts against me.
- ☐ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

- ☐ race _____
- ☐ color _____
- ☐ gender/sex _____
- ☐ religion _____
- ☐ national origin _____
- ☐ age *(year of birth)* _____ *(only when asserting a claim of age discrimination.)*
- ☒ disability or perceived disability *(specify disability)*
stress and anxiety disorder, PTSD, fibromyalgia _____

E. The facts of my case are as follows. Attach additional pages if needed.

see attached

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)* 08-04-2021

- B. The Equal Employment Opportunity Commission *(check one)*:

☐

has not issued a Notice of Right to Sue letter.

☒

issued a Notice of Right to Sue letter, which I received on *(date)* 08/27/2023.

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct *(check one)*:

☐

60 days or more have elapsed.

☐

less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Lost wages (approximately \$119,000 still accruing), reduced retirement (-\$800/month until my death), additional medical expenses due to loss of medical benefits, value of medical benefits. I am also seeking the \$300,000 in compensatory damages as it has been 4 years and continuing harm to my professional reputation, the effect has spilled over to my personal and family life, at times leaving me incapacitated and institutionalized. This has cost me my marriage. My children have been emotionally effected to the level of requiring medical care.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 11-22-2023

Signature of Plaintiff

Printed Name of Plaintiff

Tracy Childers
Tracy Childers

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

CLAIM 1: failure to provide a reasonable accommodation (RA):

- The Complainant has been employed as a teacher for more than 20 years. She had not experienced difficulty with Human Resources and/or the District Administration until she needed reasonable accommodations (“RA’s”).
- The Complainant has had to fight for reasonable accommodations since 2018 and as recently as of May 2021 and it continues. While she has obtained partial accommodations and done her best to stay at work, the Employer continues to delay and fail to engage in the interactive process in a timely manner, triggering exacerbated anxiety and physical manifestation of her emotional disabilities, despite repeatedly being advised that their practices are doing so. When Human Resources (HR) and the Administration (Admin) are not harassing the Complainant about her disabilities and need for a reasonable accommodation, she is able to not only perform the primary functions of her job, but she has continued to excel.
- While it is true that the Employer has the right to revisit the Complainant’s RA’s, it has been previously determined that clear, concise and timely communication along with notice for preparation are part of the Complainant’s RA because HR and the Admin’s tactics have been the primary source of the Complainant’s anxiety.
 - HR has repeatedly waited until the last minute to make changes and/or completely negate the Complainant’s existing RA’s, as harassment, triggering her anxiety.
- Additionally, HR and Admin continue to harass the Complainant with regard to her reasonable accommodation, removing the previous year’s RA and changing the parameters in which they are willing to provide an RA, ignoring the doctor required criteria and causing harm to the Complainant as well as further exacerbating the symptoms of her disability.

CLAIM 2: Retaliation

- The Complainant has on several occasions and as recently as May 2021, engaged in the protected activity of complaining to HR and to Admin about disability discrimination as well as their failure to provide a reasonable accommodation.
- The Complainant has on several occasions and as recently as May 2021, engaged in the protected activity of requesting reasonable accommodations and to enter into the interactive process.
- The Employer has repeatedly thwarted the Complainant’s efforts to obtain reasonable accommodations, citing policy and state law, which have no bearing on the ADA criteria for reasonable accommodation and/or establishing undue burden.
 - Reasonable accommodation, by definition, is an exception to policy, and in this instance, the exception to state law.
- The Complainant believes that this is retaliation for having engaged in the above-mentioned protected activities

- The Complainant will show that Brodie Downs – Assistant Director of Human Resources -has admitted that the Employer afforded a reduction to part-time, as a reasonable accommodation, after signing a full-time contract, a position which she held for more than 20 years.
 - The Complainant will also show Mr. Downs attempting to remove this accommodation without providing ADA criteria for undue burden, but instead cites Virginia Code, which is superseded by the ADA.
 - Mr. Downs' has also attempted to completely remove the Complainant's reasonable accommodation (RA) status and return her to "regular recruitment processes" without affording her the interactive process to renew, update or continue her reasonable accommodations with the Complainant or her doctors.
- On April 26, 2021 the Complainant attempted to engage in the interactive process and noting that she believed removing her ADA accommodation and her full-time contract were adverse employment actions after having engaged in a protected activity.
- The Complainant believed that this was retaliation and the Employer was attempting to force her resignation.
- Because of all this, the Complainant believes that she is being discriminated against because of her disabilities as well as being retaliated against for having engaged in the protected activities of 1.) complaining about disability discrimination and 2.) requesting reasonable accommodations for her disabilities.

Additional information:

Human Resources and the District consistent and pervasive harassment about the Complainant's disabilities and need for RA has increasingly exacerbated Complainant's symptoms of her emotional disorders which have manifested as a result into fibromyalgia and osteoarthritis.